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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		2611-0176P	
		Application Number 10/049,855-Conf. #2469	Filed February 19, 2002
		First Named Inventor Seiji KOZAKI et al.	
		Art Unit 2638	Examiner L. Wang
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. <u>40,439</u></p> <p> _____ Signature</p> <p>_____ D. Richard Anderson Typed or printed name</p> <p>_____ (703) 205-8035 Telephone number</p> <p>_____ January 5, 2006 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			



Docket No.: 2611-0176P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Seiji KOZAKI et al.

Application No.: 10/049,855

Confirmation No.: 2469

Filed: February 19, 2002

Art Unit: 2638

For: OPTICAL BURST
TRANSMISSION/RECEPTION CONTROL
SYSTEM, HOST STATION AND SLAVE
STATION APPARATUS TO BE USED THERE
IN, AN OPTICAL BURST TRANSMISSION/
RECEPTION CONTROL METHOD

Examiner: L. Wang

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being file concurrently with a Notice of Appeal.

The review is being requested for the reasons set forth on the attached five (5) sheets.

INTRODUCTION

As stated in the Final Office Action dated August 5, 2005, claims 1-6, 9, 11 and 12 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over *Yuki et al.* (U.S. Patent 6,778,557, hereinafter “*Yuki*”) in view of *Haartsen* (U.S. Patent 6,393,007). Claim 13 stands rejected under 35 U.S.C. § 103 as allegedly being unpatentable over *Yuki* in view of *Haartsen*, and further in view of *Lobbett et al.* (U.S. Patent 6,201,622, hereinafter “*Lobbett*”).

For reasons detailed below, Applicants respectfully submit that these rejections fail to establish *prima facie* obviousness. Generally, the rejections misinterpret teachings of the applied references and fail to establish that one having ordinary skill in the art would have been motivated to modify or combine teachings of these references in a manner that satisfies all claim features. For purposes of this Request for Pre-Appeal Brief Conference, Applicants focus on representative independent claim 1 to highlight these deficiencies in the prior art rejections.

The Claimed Invention

Independent claim 1 is directed to an optical burst transmission/reception control system. The system of claim 1 comprises: a plurality of slave station apparatuses which commonly use a transmission band; and a host station apparatus which posts band allocation information for controlling allocation of use of transmission bands of the slave station apparatuses to the slave station apparatuses. The respective slave station apparatuses transmit data to the host station apparatus based on the band allocation information posted from the host station apparatus. The host station apparatus has a band allocation control unit, and when the band allocation control unit controls band allocation for a slave station apparatus which does not identify a type of data to be transmitted, the band allocation control unit posts band identification information including identification of the slave station apparatus to the slave station apparatus, and when the band allocation control unit controls band allocation for a slave station apparatus which identifies a type of data to be transmitted, the band allocation control unit posts band allocation information including the identification of the slave station apparatus and the data type to the slave station apparatus. The plurality of slave station apparatuses, which identify a type of data to be transmitted, have a data transmission control unit, and when the band allocation information is

the band allocation information about their slave station apparatuses, perform control so as to transmit data to the host station apparatus according to the data types.

Therefore, as emphasized by amendments to claim 1 presented May 4, 2005, the band allocation control unit of the host system is able to differentiate between two classes of slave units: a first class of slave unit that can identify a type of data being transmitted; and a second class of slave unit that cannot identify the type of data being transmitted. The band allocation control unit sends different band identification information depending on the type of slave unit.

The Rejection of Claim 1 Under 35 U.S.C. § 103

As detailed on pages 2-3, the Final Office Action dated August 5, 2005 rejects claim 1 based on an allegedly obvious modification of a communication system disclosed by *Yuki* in view of aspects of a communication system disclosed by *Haartsen*. *Yuki* discloses a “point-to-multi-point” communication system in which a master unit 20 controls an amount of information to be transmitted by each of a plurality of slave units 10-1, 10-2, ..., 10-m. Abstract; Fig. 1. The master unit 20 and each slave unit 10 communicate via a shared communication line 30 in accordance with the TDM (Time Division Multiplex) protocol. Col. 12, lines 45-55. The master unit 20 includes a control unit 27, which instructs each slave unit 10 to report on information amount needed for signal transmission and sends signal transmission instructions based on such reports to maintain data throughput performance and avoid signal collisions. Col. 2, lines 22-34; Col. 12, lines 30-42; Fig. 3.

The secondary reference, *Haartsen*, discloses a TDMA (Time Division Multiple Access) radio communication system in which time slot allocation of a TDMA frame is based on the type of information transmitted in the time slot. Abstract; Col. 3, lines 42-55.

In rejecting claim 1, page 3 of the Final Office Action asserts:

Yuki et al. differ from the claimed invention in that *Yuki et al.* do not teach identify the data type and transmit data to said host station apparatus according to the data types. However, *Haartsen* from the same field of endeavor teach a method to separate between time slots allocated to voice communication channels and to data communication (Col. 3, lines 45-50, Col. 4, lines 26-32, inherently a data type must be identified in a information sent to slave station). Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to adapt a time-slot allocation method, such as the one of *Haartsen*, into

the system of *Yuki et al.* in order to provide optimum interference diversity for voice communication.

Deficiencies in the Rejection

The grounds of rejection stated above admit that the primary reference, *Yuki*, fails to disclose a band allocation control unit of a host station that differentiates between two classes of slave units: a first class of slave unit that can identify a type of data being transmitted; and a second class of slave unit that cannot identify the type of data being transmitted. It follows that *Yuki* fails to disclose a band allocation control unit sending different band identification information for the different classes of slave units in the manner recited in claim 1.

Although *Haartsen* discloses a Time Division Multiple Access (TDMA) radio communication system, in which different time slots are allocated to different types of information, modifying *Yuki* to adopt a time-slot allocation technique (assuming such a modification would have been obvious, which Applicants do not admit) does not result in the technical feature of claim 1 discussed above. Stated another way, allocating TDMA time slots based on data type, as disclosed by *Haartsen*, does not suggest modifying the control unit 27 of the master unit 20 in *Yuki* such that it is able to differentiate between two classes of slave units: a first class of slave unit that can identify a type of data being transmitted; and a second class of slave unit that cannot identify the type of data being transmitted, and send different band identification information depending on the type of slave unit.

To establish *prima facie* obviousness, all claim limitations must be taught or suggested by the prior art and the asserted modification or combination of prior art must be supported by some teaching, suggestion, or motivation in the applied reference or in knowledge generally available to one skilled in the art. *In re Fine*, 837, F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Thus, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). The prior art must suggest the desirability of the modification in order to establish a *prima facie* case of obviousness. *In re Brouwer*, 77 F.3d 422, 425, 37 USPQ2d 1663, 1666 (Fed. Cir. 1995). It can also be said that the prior art must collectively suggest or point to the claimed invention to support a finding of obviousness. *In re*

Hedges, 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986); *In re Ehrreich*, 590 F.2d 902, 908-09, 200 USPQ 504, 510 (CCPA 1979).

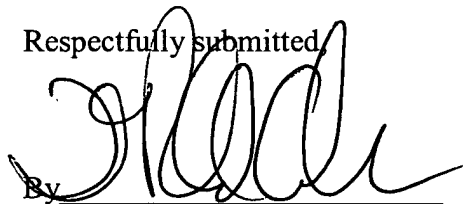
At least in view of the above, Applicants respectfully submit that the asserted combination of *Yuki* and *Haartsen* (assuming these references may be combined, which Applicants do not admit) fails to establish *prima facie* obviousness of claim 1, or any claim depending therefrom. Furthermore, Applicants submit that independent claims 9 and 11 and dependent claims 12 and 13 define over the asserted combination based on similar reasoning to that set forth above with regard to claim 1. Applicants further submit that the reliance on *Lobbett* as allegedly pertaining to incremental features of dependent claim 13 fails to make up for the deficiencies of the *Yuki-Haartsen* combination discussed above.

Conclusion

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,



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